

AMENDED IN ASSEMBLY MARCH 22, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 340

Introduced by Assembly Member Hancock

February 14, 2007

An act to amend Section 8712 of the Family Code, and to add Sections 16519 and 16519.5 to the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 340, as amended, Hancock. Child welfare services: resource family pilot program.

Existing law requires the placement of dependent children by the juvenile court according to specified procedures. Existing law requires the state, through the State Department of Social Services and county welfare departments, to establish and support a system of statewide child welfare, which includes services related to foster care placement of dependent children and adoption. Existing law provides for the licensure of foster care providers, and the approval of adoptive parents.

This bill would require the State Department of Social Services, in consultation with county welfare agencies, to implement a pilot program to establish a unified resource family approval process to replace the existing multiple processes for licensing foster family homes, approving relatives and nonrelated extended family members as foster care providers, and approving adoptive families, as provided in the bill. The bill would define a resource family for its purposes as an individual or couple that a participating county has approved to care for a related or unrelated child who is under the jurisdiction of the juvenile court or otherwise in the care of a county child welfare agency.

This bill would require the department ~~to~~, prior to implementing the pilot program, *to* promulgate standards for home approval and permanency assessment for placing children in a resource family.

This bill would require the pilot program to be conducted in up to 5 counties that volunteer to participate. It would authorize the pilot program to continue through the 2010–11 fiscal year, or for 3 full fiscal years following the receipt of funding for the program, whichever is later.

Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. The program is funded by a combination of federal, state, and county funds, with moneys from the General Fund being continuously appropriated to pay for the state's share of AFDC-FC costs. Existing law requires that a child be in one of 7 designated placements in order to be eligible for AFDC-FC.

This bill also would require a child placed in a resource family home that meets specified standards to be eligible for AFDC-FC. By expanding eligibility standards for AFDC-FC benefits, this bill would make an appropriation. The bill would provide that a resource family be paid a specified AFDC-FC rate, and would apply existing sharing ratios for state financial participation.

This bill would make its implementation contingent upon the continued availability of federal funds for costs associated with the placement of children with resource families as provided in the bill.

The bill would also set forth specified responsibilities for the department and counties participating in the pilot program for implementing and enforcing standards provided in the bill.

Existing law requires the State Department of Social Services or licensed adoption agency to require each person filing an application for adoption to be fingerprinted, and to secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation, and authorizes the department or a licensed adoption agency to secure the person's full criminal record, if any.

This bill would require that any federal level criminal offender record requests submitted to the Department of Justice be submitted with fingerprint images and related information required by the Department of Justice, as specified. The bill would require the Department of Justice to forward any such record requests received pursuant to those

provisions to the Federal Bureau of Investigation (FBI), to review the information returned to the department from the FBI, and to compile and disseminate a response to the State Department of Social Services or to the licensed adoption agency.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8712 of the Family Code is amended to
2 read:
3 8712. (a) The department or licensed adoption agency shall
4 require each person filing an application for adoption to be
5 fingerprinted and shall secure from an appropriate law enforcement
6 agency any criminal record of that person to determine whether
7 the person has ever been convicted of a crime other than a minor
8 traffic violation. The department or a licensed adoption agency
9 may also secure the person's full criminal record, if any. Any
10 federal level criminal offender record requests to the Department
11 of Justice shall be submitted with fingerprint images and related
12 information required by the Department of Justice for the purposes
13 of obtaining information as to the existence and content of a record
14 of an out-of-state or federal conviction or arrest of a person or
15 information regarding any out-of-state or federal crimes or arrests
16 for which the Department of Justice establishes that the person is
17 free on bail, or on his or her own recognizance pending trial or
18 appeal. The Department of Justice shall forward to the Federal
19 Bureau of Investigation any such requests for federal summary
20 criminal history information received pursuant to this section. The
21 Department of Justice shall review the information returned from
22 the Federal Bureau of Investigation and shall compile and
23 disseminate a response to the department or a licensed adoption
24 agency.
25 (b) The criminal record, if any, shall be taken into consideration
26 when evaluating the prospective adoptive parent, and an assessment
27 of the effects of any criminal history on the ability of the
28 prospective adoptive parent to provide adequate and proper care
29 and guidance to the child shall be included in the report to the
30 court.

(c) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the applicant shall be paid by the applicant. The department or licensed adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to prospective adoptive parents detrimental to the welfare of the adopted child, when the child has been in the foster care of the prospective adoptive parents for at least one year, or if necessary for the placement of a special-needs child.

SEC. 2. Section 16519 is added to the Welfare and Institutions Code, to read:

16519. The Legislature finds and declares the following:

(a) Safety, permanency, and well-being are crucial for the more than 82,000 California children in foster care, and are paramount to achieving both federal and state child welfare system improvement goals. Foster children need safe homes with permanent connections to family or other caring adults. The current licensing and approval system, which screens families to care for foster children, fails to support these outcomes.

(b) Children in foster care live in a variety of out-of-home care settings: licensed foster family homes, approved relative and nonrelated extended family member homes, foster family agencies, and group homes. All of these placement types, considered facilities under current law, are required to meet the respective health and safety standards in order to be licensed or approved. This has produced administrative inefficiencies and confusion among stakeholders, and has contributed to difficulty in recruiting suitable foster family homes for children in out-of-home care. Increasing the number of available suitable homes will improve the likelihood that the best home will be initially identified to meet a child's particular needs.

(c) Child safety and well-being are not achieved solely by ensuring that the home the child is placed in is free from physical hazards and that adults living in the home do not have disqualifying criminal convictions or past reports of child abuse. Child safety and well-being are also dependent upon consideration of the resource family's psychosocial history that includes physical health, mental health, alcohol and substance abuse, family violence or abuse, and experience caring for children.

1 (d) Research shows that children in out-of-home care placed
2 with relatives and nonrelated extended family members are more
3 stable, more likely to be placed with siblings, and more likely to
4 stay connected to their community and extended family. California
5 statutory and regulatory provisions should maximize the likelihood
6 that a child will initially be placed in the care of a safe relative or
7 nonrelated extended family member who is willing to provide
8 permanent care if reunification cannot be achieved.

9 (e) Families living in the same neighborhood as a family from
10 which a child has been removed are often best suited to provide
11 for the immediate placement needs of that child.

12 (f) Families who provide care to children in out-of-home
13 placement are a valuable resource to the people of this state and
14 to the children for whom they provide care.

15 SEC. 3. Section 16519.5 is added to the Welfare and
16 Institutions Code, to read:

17 16519.5. (a) The State Department of Social Services, in
18 consultation with county child welfare agencies, foster parent
19 associations, and other interested community parties, shall
20 implement a pilot program to establish a unified, family friendly,
21 and child-centered resource family approval process to replace the
22 existing multiple processes for licensing foster family homes,
23 approving relatives and nonrelated extended family members as
24 foster care providers, and approving adoptive families.

25 (b) Up to five counties shall be selected to participate on a
26 voluntary basis in the pilot program, according to criteria developed
27 by the department in consultation with the County Welfare
28 Directors Association. In selecting the pilot counties, the
29 department shall promote diversity among the participating
30 counties in terms of size and geographic location.

31 (c) (1) For the purposes of this section, “resource family” means
32 an individual or couple that a participating county determines to
33 have successfully met both the home approval standards and the
34 permanency assessment criteria adopted pursuant to subdivision
35 (d) necessary for providing care for a related or unrelated child
36 who is under the jurisdiction of the juvenile court, or otherwise in
37 the care of a county child welfare agency. A resource family shall
38 demonstrate all of the following:

39 (A) An understanding of the safety, permanence, and well-being
40 needs of children who have been victims of child abuse and neglect,

1 and the capacity and willingness to meet those needs, including
2 the need for protection, and the willingness to make use of support
3 resources offered by the agency, or a support structure in place,
4 or both.

5 (B) An understanding of children's needs and development,
6 effective parenting skills or knowledge about parenting, and the
7 capacity to act as a *reasonable*, prudent parent in ~~routine~~ *day-to-day*
8 decisionmaking.

9 (C) An understanding of his or her role as a resource family and
10 the capacity to work cooperatively with the agency *and other*
11 *service providers* in implementing the child's case plan.

12 (D) The financial ability within the household to ensure the
13 stability and financial security of the family.

14 (E) *An ability and willingness to maintain the least restrictive*
15 *and most family-like environment that serves the needs of the child.*

16 (2) Subsequent to meeting the criteria set forth in this
17 subdivision and designation as a resource family, a resource family
18 shall be considered eligible to provide foster care for related and
19 unrelated children in out-of-home placement, shall be considered
20 approved for adoption or guardianship, and shall not have to
21 undergo any additional approval or licensure as long as the family
22 lives in a county participating in the pilot program.

23 (3) Resource family assessment and approval means that the
24 applicant meets the standard for home approval, and has
25 successfully completed a permanency assessment. This approval
26 is in lieu of the existing foster care license, relative or nonrelated
27 extended family member approval, and the adoption home study
28 approval.

29 (4) Approval of a resource family does not guarantee an initial
30 or continued placement of a child with a resource family.

31 (d) Prior to implementation of this pilot program, the department
32 shall adopt standards pertaining to home approval and permanency
33 assessment of a resource family.

34 (1) Resource family home approval standards shall include, but
35 not be limited to, all of the following:

36 (A) (i) Criminal records clearance of all adults residing in the
37 home, pursuant to Section 8712 of the Family Code, utilizing a
38 check of the Child Abuse Central Index (CACI), a check of the
39 Child Welfare Services Case Management System (CWS/CMS),
40 receipt of a fingerprint-based state criminal offender record

1 information search response, and submission of a fingerprint-based
2 federal criminal offender record information search.

3 (ii) Consideration of any prior allegations of child abuse or
4 neglect against either the applicant or any other adult residing in
5 the home. An approval may not be granted to applicants whose
6 criminal record indicates a conviction for any of the offenses
7 specified in clause (i) of subparagraph (A) of paragraph (1) of
8 subdivision (g) of Section 1522 of the Health and Safety Code.

9 (iii) Exemptions from the criminal records clearance
10 requirements set forth in this section may be granted by the director
11 or the pilot county, if that county has been granted permission by
12 the director to issue criminal records exemptions pursuant to
13 Section 316.4, using the exemption criteria currently used for foster
14 care licensing as specified in subdivision (g) of Section 1522 of
15 the Health and Safety Code.

16 (B) Buildings and grounds, outdoor activity space, and storage
17 requirements set forth in Sections 89387, 89387.1, and 89387.2
18 of Title 22 of the California Code of Regulations.

19 (C) In addition to the foregoing requirements, the resource
20 family home approval standards shall also require the following:

21 (i) That the applicant demonstrate an understanding about the
22 rights of children in care and his or her responsibility to safeguard
23 those rights.

24 (ii) That the total number of children residing in the home of a
25 resource family shall be no more than the total number of children
26 the resource family can properly care for, regardless of status, and
27 shall not exceed six children, unless exceptional circumstances
28 that are documented in the foster child's case file exist to permit
29 a resource family to care for more children, including but not
30 limited to, the need to place siblings together.

31 (iii) *That the applicant understands his or her responsibilities*
32 *with respect to acting as a reasonable and prudent parent, and*
33 *maintaining the least restrictive and most family-like environment*
34 *that serves the needs of the child.*

35 (D) The results of a caregiver risk assessment are consistent
36 with the factors listed in subparagraphs (A) to (D), inclusive, of
37 paragraph (1) of subdivision (c). A caregiver risk assessment shall
38 include, but not be limited to, physical and mental health, alcohol
39 and other substance use and abuse, and family and domestic
40 violence.

1 (2) The resource family permanency assessment standards shall
2 include, but not be limited to, all of the following:

3 (A) The applicant shall complete caregiver training.

4 (B) The applicant shall complete a psychosocial evaluation.

5 (C) The applicant shall complete any other activities that relate
6 to a resource family's ability to achieve permanency with the child.

7 (e) (1) A child may be placed with a resource family that has
8 received home approval prior to completion of a permanency
9 assessment only if a compelling reason for the placement exists
10 based on the needs of the child.

11 (2) The permanency assessment shall be completed within 90
12 days of the child's placement in the approved home, unless good
13 cause exists based upon the needs of the child.

14 (3) If additional time is needed to complete the permanency
15 assessment, the county shall document the extenuating
16 circumstances for the delay and generate a timeframe for the
17 completion of the permanency assessment.

18 (4) The county shall report to the department on a quarterly
19 basis the number of families with a child in an approved home
20 whose permanency assessment goes beyond 90 days and
21 summarize the reasons for these delays.

22 (5) A child may be placed with a relative, as defined in Section
23 319, or nonrelated extended family member, as defined in Section
24 362.7, prior to home approval and completion of the permanency
25 assessment only on an emergency basis if all of the following
26 requirements are met:

27 (A) Consideration of the results of a criminal records check
28 conducted pursuant to Section 16504.5 of the relative or nonrelative
29 extended family member and of every other adult in the home.

30 (B) Consideration of the results of the Child Abuse Central
31 Index (CACI) consistent with Section 1522.1 of the Health and
32 Safety Code of the relative or nonrelative extended family member,
33 and of every other adult in the home.

34 (C) The home and grounds are free of conditions that pose undue
35 risk to the health and safety of the child.

36 (D) For any placement made pursuant to this paragraph, the
37 county shall initiate the home approval process no later than five
38 business days after the placement, which shall include a
39 face-to-face interview with the resource family applicant and child.

1 (E) For any placement made pursuant to this paragraph,
2 AFDC-FC funding shall not be available until the home has been
3 approved.

4 (F) Any child placed under this section shall be afforded all the
5 rights set forth in Section 16001.9.

6 (f) The State Department of Social Services shall be responsible
7 for all of the following:

8 (1) Selecting pilot counties, based on criteria established by the
9 department in consultation with the County Welfare Directors
10 Association.

11 (2) Establishing timeframes for participating counties to submit
12 an implementation plan, enter into terms and conditions for
13 participation in the pilot program, train appropriate staff, and accept
14 applications from resource families.

15 (3) Entering into terms and conditions for participation in the
16 pilot by counties.

17 (4) Administering the pilot through the issuance of written
18 directives that shall have the same force and effect as regulations.
19 Any directive affecting Article 1 (commencing with Section 700)
20 of Chapter 7 of Title 11 of the California Code of Regulations shall
21 be approved by the Department of Justice. The directives shall be
22 exempt from the rulemaking provisions of the Administrative
23 Procedure Act (Chapter 3.5 (commencing with Section 11340))
24 of Part 1 of Division 3 of Title 2 of the Government Code.

25 (5) Approving and requiring the use of a single standard for
26 resource family home approval and permanency assessment.

27 (6) Adopting and requiring the use of standardized
28 documentation for the home approval and permanency assessment
29 of resource families.

30 (7) Requiring counties to monitor resource families including,
31 but not limited to, all of the following:

32 (A) Investigating complaints of resource families.

33 (B) Developing and monitoring resource family corrective action
34 plans to correct identified deficiencies and to rescind resource
35 family approval if compliance with corrective action plans is not
36 achieved.

37 (8) Ongoing oversight and monitoring of county systems and
38 operations including all of the following:

39 (A) Reviewing the county's implementation of the pilot
40 program.

(B) Reviewing an adequate number of approved resource families in each participating county to ensure that approval standards are being properly applied. The review shall include case file documentation, and may include onsite inspection of individual resource families. The review shall occur on an annual basis, and more frequently if the department becomes aware that a participating county is experiencing a disproportionate number of complaints against individual resource family homes.

(C) Reviewing county reports of serious complaints and incidents involving approved resource families, as determined necessary by the department. The department may conduct an independent review of the complaint or incident and change the findings depending on the results of its investigation.

(D) Investigating unresolved complaints against participating counties.

(E) Requiring corrective action of counties that are not in full compliance with the terms and conditions of the pilot program.

(9) Terminating the participation of any county that fails to make corrective action or who otherwise violates the terms and conditions of participation in the pilot.

(10) Preparing or having prepared within 180 days after the conclusion of the pilot a report on the results of the pilot. The report shall include all of the following:

(A) An analysis, utilizing available data, of state and federal data indicators related to the length of time to permanency including reunification, guardianship and adoption, child safety factors, and placement stability.

(B) An analysis of resource family recruitment and retention elements, including resource family satisfaction with approval processes and changes regarding the population of available resource families.

(C) An analysis of cost, utilizing available data, including funding sources.

(D) An analysis of regulatory or statutory barriers to implementing the pilot program on a statewide basis.

(g) Counties participating in the pilot shall be responsible for all of the following:

(1) Submitting an implementation plan, entering into terms and conditions for participation in the pilot, training appropriate staff,

1 and accepting applications from resource families within the
2 timeframes established by the department.

3 (2) Complying with the written directives pursuant to paragraph
4 (4) of subdivision (f).

5 (3) Implementing the requirements for resource family home
6 approval and permanency assessment and utilizing standardized
7 documentation established by the department.

8 (4) Ensuring staff have the education and experience necessary
9 to complete the home approval and permanency assessment
10 competently.

11 (5) Approving and denying resource family applications,
12 including all of the following:

13 (A) Rescinding home approvals and resource family approvals
14 where appropriate, consistent with the established standard.

15 (B) Providing disapproved resource families requesting review
16 of that decision due process by conducting county grievance
17 reviews pursuant to the department's regulations.

18 (C) Notifying the department of any decisions denying a
19 resource family's application or rescinding the approval of a
20 resource family.

21 (6) Updating resource family approval annually.

22 (7) Monitoring resource families through all of the following:

23 (A) Ensuring that social workers who identify a condition in
24 the home that may not meet the approval standards set forth in
25 subdivision (d) while in the course of a routine visit to children
26 placed with a resource family take appropriate action as needed.

27 (B) Requiring resource families to comply with corrective action
28 plans as necessary to correct identified deficiencies. If corrective
29 action is not completed as specified in the plan, the county may
30 rescind the resource family approval.

31 (C) Requiring resource families to report to the county child
32 welfare agency any incidents consistent with the reporting
33 requirements for licensed foster family homes.

34 (8) Investigating all complaints against a resource family and
35 taking action as necessary. This shall include investigating any
36 incidents reported about a resource family indicating that the
37 approval standard is not being maintained.

38 (A) The child's social worker shall not conduct the formal
39 investigation into the complaint received concerning a family
40 providing services under the standards required by subdivision

1 (d). To the extent that adequate resources are available, complaints
2 shall be investigated by a worker who did not initially perform the
3 home approval or permanency assessment.

4 (B) Upon conclusion of the complaint investigation, the final
5 disposition shall be reviewed and approved by a supervising staff
6 member.

7 (C) The department shall be notified of any serious incidents
8 or serious complaints or any incident that falls within the definition
9 of Section 11165.5 of the Penal Code. If those incidents or
10 complaints result in an investigation, the department shall also be
11 notified as to the status and disposition of that investigation.

12 (9) Performing corrective action as required by the department.

13 (10) Assessing county performance in related areas of the
14 California Child and Family Services Review, and remedying
15 problems identified.

16 (11) Submitting information and data that the department
17 determines is necessary to study, monitor, and prepare the report
18 specified in paragraph (10) of subdivision (f).

19 (h) Approved relatives and nonrelated extended family members,
20 licensed foster family homes, or approved adoptive homes that
21 have completed the license or approval process prior to full
22 implementation of the pilot program shall not be considered part
23 of the pilot program. The otherwise applicable assessment and
24 oversight processes shall continue to be administered for families
25 and facilities not included in the pilot program.

26 (i) Upon completion of the pilot program, the status of the
27 resource family's approval shall continue in full force and effect,
28 and the resource family shall be deemed approved for licensing,
29 relative and nonrelated extended family member approval,
30 guardianship, and adoption purposes.

31 (j) The department may waive regulations that pose a barrier to
32 implementation and operation of this pilot program. The waiver
33 of any regulations by the department pursuant to this section shall
34 apply to only those counties participating in the pilot program and
35 only for the duration of the pilot program.

36 (k) Resource families approved under this pilot program, who
37 move within a participating county or who move to another pilot
38 program county, shall retain their resource family status if the new
39 building and grounds, outdoor activity areas, and storage areas
40 meet home approval standards. The State Department of Social

1 Services or pilot county may allow a pilot program-affiliated
2 individual to transfer his or her subsequent arrest notification if
3 the individual moves from one pilot county to another pilot county,
4 as specified in subdivision (h) of Section 1522 of the Health and
5 Safety Code.

6 (l) (1) A resource family approved under this pilot program
7 that moves to a nonparticipating pilot program county shall lose
8 its status as a resource family. The new county of residence shall
9 deem the family approved for licensing, relative and nonrelated
10 extended family member approval, guardianship, and adoption
11 purposes, under the following conditions:

12 (A) The new building and grounds, outdoor activity areas, and
13 storage areas meet applicable standards, unless the family is subject
14 to a corrective action plan.

15 (B) There has been a criminal records clearance of all adults
16 residing in the home and exemptions granted, using the exemption
17 criteria currently used for foster care licensing, as specified in
18 subdivision (g) of Section 1522 of the Health and Safety Code.

19 (2) A program-affiliated individual who moves to a nonpilot
20 county may not transfer his or her subsequent arrest notification
21 from a pilot county to the nonpilot county.

22 (m) Implementation of the pilot program shall be contingent
23 upon the continued availability of federal Social Security Act Title
24 IV-E (42 U.S.C. Sec. 670) funds for costs associated with
25 placement of children with resource families assessed and approved
26 under the program.

27 (n) Notwithstanding Section 11402, a child placed with a
28 resource family shall be eligible for AFDC-FC payments. A
29 resource family shall be paid an AFDC-FC rate pursuant to
30 Sections 11460 and 11461. Sharing ratios for nonfederal
31 expenditures for all costs associated with activities related to the
32 approval of relatives and nonrelated extended family members
33 shall be in accordance with Section 10101.

34 (o) The Department of Justice shall charge fees sufficient to
35 cover the cost of initial or subsequent criminal offender record
36 information and Child Abuse Central Index searches, processing,
37 or responses, as specified in this section.

38 (p) Approved resource families under this pilot program shall
39 be exempt from all of the following:

- 1 (1) Licensure requirements set forth under the Community Care
2 Facilities Act, commencing with Section 1500 of the Health and
3 Safety Code and all regulations promulgated thereto.
- 4 (2) Relative and nonrelated extended family member approval
5 requirements set forth under Sections 309, 361.4, and 362.7, and
6 all regulations promulgated thereto.
- 7 (3) Adoptions approval and reporting requirements set forth
8 under Section 8712 of the Family Code, and all regulations
9 promulgated thereto.
- 10 (q) The pilot program shall be authorized to continue through
11 the end of the 2010–11 fiscal year, or through the end of the third
12 full fiscal year following the date that funds are made available
13 for its implementation, whichever of these dates is later.